IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 11TH APRIL 2007 / 21ST CHAITHRA 1929

WP(C).No. 11612 of 2007(G)

PETITIONER:

JAYAN PETER,
MUPPARAPALLIYIL HOUSE, P.O.VALIYANNUR,
PALAI, KOTTAYAM.

BY ADV. SRI.O.D.SIVADAS

RESPONDENTS:

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1. THE REGIONAL TRANSPORT AUTHORITY,
KANNUR, REPRESENTED BY ITS SECRETARY.

2. THE SECRETARY,
REGIONAL TRANSPORT AUTHORITY, KANNUR.

3. THE STATE TRANSPORT APPELLATE TRIBUNAL,
ERNAKULAM.

4. THE MANAGING DIRECTOR,
KERALA STATE ROAD TRANSPORT CORPORATION,
TRANSPORT BHAVAN, THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SMT.N.SUDHADEVI.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 11/04/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX:

PETITIONER'S EXHIBITS:

EXT.P1- TRUE COPY OF THE ORDER NO.G1/65452002 DATED 6-5-2002 OF THE RTA, KOTTAYAM.

EXT.P2-TRUE COPY OF the ORDER NO.C746268/2000/E DATED 27-10-2000 OF THE RTA, ERNAKULAM.

EXT.P3- TRUE COPY OF the ORDER IN MVARP.NO.366/1998 DATED 4-7-98 ISSUED BY THE STAT.

EXT.P4- TRUE COPY OF the ORDER NO.G2/40930/2000M DATED 8-1-2001 OF RTA, MALAPPURAM.

EXT.P5- TRUE COPY OF ORDER NO.G1/23775/2000D DATED 29-12-2000 OF THE RTA, KOZHIKODE.

EXT.P6- TRUE COPY OF THE ORDER NO.C124424/06C DATED 23-1-2007 OF THE RTA KANNUR.

EXT.P7- TRUE COPY OF the JUDGMENT DATED 27-10-2004 IN WA.NO.1903 OF 2004 PASSED BY THIS HON'BLE COURT.

EXT.P8- TRUE COPY OF HT EREQUEST DATED 23-1-2007 SUBMITTED BY the PETITIONER BEFORE THE RTA, KANNUR.

EXT.P9- TRUE COPY OF the APPEAL MEMORANDUM FILED BY THE PETITIONER BEFORE THE STAT ON 23-2-2007 NUMBERED AS MVAA.112/2007.

EXT.P10- TRUE COPY OF THE JUDGMENT DATED 26-3-2007 IN MVAA. 112 OF 2007 PASSED BY THE STAT.

TRUE COPY

P.A.TO JUDGE.

K.BALAKRISHNAN NAIR, J.

W.P.(C).No.11612 of 2007-G

Dated this the 11th day of April, 2007

JUDGMENT

The petitioner is a stage carriage operator operating on the route Payyannur-Chandanakkampara-Kottayam as LSOS. He applied for renewal of the permit for the period from 27-10-2002 to 26-10-2007. The said application was rejected by the R.T.A. Kannur, by Ext.P6 decision dated 23-1-2007 on several grounds. The petitioner appealed. The appeal was dismissed by Ext.P10 judgment. The relevant portion of the said judgment reads as follows:

> " The renewal was sought from 27-10-2002 to 26-10-2007. Hence permit was not in force on 9-5-2006. Hence renewal cannot be granted in violation of supplementation scheme. From Payyannur to Thaliparamba, Thalassery to Kozhikode and Kozhikode to Ramanattukara. There will be overlapping on various notified routes under supplementation scheme. On that ground itself renewal cannot be granted. The route distance far exceed 140 k.m. too.
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> In the result the appeal is dismissed."

2. The S.T.A.T. relied on only two grounds to dismiss the appeal. The first ground is that there is violation of supplementation scheme. The second ground is that the permit for LSOS cannot be granted in a route having route length above 140 k.m. Relying on the appeal memo filed by

the petitioner before the S.T.A.T., it is pointed out that he is ready to operate his service in Kannur District avoiding overlapping of nationalised routes in relation other routes. It is submitted that the concerned Regional Transport Authorities have granted concurrence for the previous as well as the present renewal. He also submitted that the petitioner is willing to operate his service as a Super Fast Passenger Service to get over the bar under the rules regarding the length of the route for which the permit for Fast Passenger Service can be given. The petitioner points out that the above submissions made by the petitioner in the appeal memorandum was not adverted to by the S.T.A.T. in Ext.P10 judgment. He also pointed out that these submissions were made before the R.T.A. also.

3. Heard the learned Government Pleader for the respondents also. I think the claim of the petitioner could be considered by the R.T.A., Kannur. The above claim of the petitioner to operate his route service as Super Fast Passenger and also to modify the route so as to avoid overlapping of nationalised routes has to be considered by the first respondent R.T.A. Accordingly, the first respondent R.T.A. is directed to take a fresh decision on the petitioner's application for renewal of the permit on the route Payyannur-Chandanakkampara-Kottayam, in the light of the above observations uninfluenced by Exts.P6 and P10 orders, within two months from the date of receipt of a copy of this judgment. It is made clear that I have not expressed anything on the merits of the case raised by the petitioner. Needless to say, while passing fresh orders, the petitioner and

the K.S.R.T.C. shall be given an opportunity of being heard.

The Writ Petition is disposed of as above.

K.BALAKRISHNAN NAIR, JUDGE.

MS